



Department of Justice

Billing Code: 4410-14

[OMB Number 1123-0009]

Agency Information Collection Activities:

Information collection renewal; comments requested:

Inspection of Records Relating to Visual Depictions of Simulated Sexually Explicit Performances

ACTION: 60-Day Notice of Information Collection:

The Department of Justice (DOJ), Criminal Division, Child Exploitation and Obscenity Section (CEOS) will submit the following information collection renewal to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection renewal is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for “sixty days” until [insert the date 60 days from the date this notice is published in the Federal Register]. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated number of respondents, estimated public burden or associated response time, suggestions, or need additional information, please contact Andrew G. Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, United States Department of Justice, Washington, DC 20530, email: admin.ceos@usdoj.gov, phone: (202) 514-5780. This is not a toll-free number.

Written comments and suggestions from the public and affected agencies concerning the collection of information are encouraged. Your comments should address one or more of the following four points:

- (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (3) How to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Summary of Information Collection:

- (1) Type of Information Collection: Renewal of a currently approved collection.
- (2) Title: Inspection of Records Relating to Visual Depictions of Simulated Sexually Explicit Performances
- (3) Agency form number, if any: None

- (4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: None.

Abstract: This is a renewal of an existing information collection implementing the record-keeping, labeling, and inspection requirements of 28 CFR part 75, accounting for changes in the underlying statute made by Congress in enacting the Adam Walsh Child Protection and Safety Act of 2006.

Need for Collection:

The information collection documents the record-keeping, labeling, and inspection requirements for producers of visual depictions of actual and simulated sexually explicit conduct, and the certification regime for the exemption from these requirements, in certain circumstances, for producers of visual depictions of simulated sexually explicit conduct and visual depictions of actual sexually explicit conduct constituting the lascivious exhibition of the genitals or pubic area of a person. These statutory requirements of 28 CFR part 75, codified at 18 U.S.C. §§ 2257 and 2257A, are designed to ensure that visual depictions of sexually explicit conduct are produced in accordance with laws and regulations, and without the involvement of minors under 18 years of age.

- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The Department is unable to estimate with any precision the number of entities producing visual depictions of simulated

sexually explicit conduct. As a partial indication, the Department's 2008 regulatory review, including the information collection request and PRA Supporting Statement (RIN 1105-AB19), cited data collected by the U.S. Census Bureau in 2002. Employing the same method of analysis, according to data collected by the U.S. Census Bureau in 2007, there were 11,974 establishments engaged in motion picture and video production in the United States. Based on a rough assumption that 10% of the establishments are engaged in the production of visual depictions of simulated sexually explicit conduct, the Department estimates that approximately 1,974 motion picture and video producing establishments are required to comply with these statutory requirements. (The Department does not certify this estimate.)

Additionally, the statute provides an exemption from these requirements applicable in certain circumstances, and it requires producers to submit certifications to qualify for this exemption. From March 18, 2009, the effective date of the certification regime, to the present, the Department has received approximately 865 certification letters. For the entities that qualify for the exemption, the Department estimates that it would take less than 20 hours per year to prepare the biennial certification required for the exemption.

- (6) An estimate of the total public burden (in hours) associated with the collection:
- If OMB were to assume that 3,000,000 visual depictions of simulated sexually explicit conduct are created each year and that it requires 6 minutes to complete the record-keeping requirement for each depiction, the record-keeping requirements would impose a burden of 300,000 hours. If, however, OMB were to assume that producers of 90% of these depictions qualify for the statutory exemption from these requirements, the requirements would only impose a burden of 30,000 hours (These estimates were included in the Department's 2008 regulatory review, including the information collection request and PRA Supporting Statement (RIN 1105-AB19). The Department does not certify the accuracy of these numbers.)

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E-508, 145 Street, NE, Washington, DC 20530.

Jerri Murray

Department Clearance Officer, PRA

U.S. Department of Justice

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